

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
DANIEL NIX,
Defendant.

Case No. CR17-105RSL

ORDER DENYING
DEFENDANT'S MOTION
TO PROCEED *IN FORMA
PAUPERIS* ON APPEAL

This matter comes before the Court on defendant's application to proceed *in forma pauperis* (IFP) on appeal. Dkt. # 268. On March 27, 2021, defendant filed a notice of appeal from the Court's Order denying defendant's motion for reconsideration of his motion for compassionate release/reduction in sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). Dkt. # 266. Generally, a party to a district court action who seeks to appeal IFP must file a motion in the district court. Fed. R. App. P. 24(a)(1) (providing that absent prior approval, a motion in district court is required).

The party seeking to appeal IFP must submit an affidavit that:

- (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;
- (B) claims an entitlement to redress; and
- (C) states the issues that the party intends to present on appeal.

Id. Defendant failed to submit an affidavit to the Court satisfying these requirements. Rather, defendant submitted an incomplete form from the Eastern District of Washington such that he

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1 did not provide detail consistent with the Ninth Circuit's Form 4 regarding defendants "inability
2 to pay or give security for fees and costs," nor did defendant state the issues he intends to
3 present on appeal. See Dkt. # 268 (reflecting that defendant did not answer questions 3-8
4 regarding his financial circumstances); Dkts. # 268-1, # 268-2 (not specifically stating the issues
5 defendant intends to present on appeal from the Court's denial of his motion for
6 reconsideration). The Ninth Circuit's Form 4 can be found on the Ninth Circuit's website at:
7 <https://www.ca9.uscourts.gov/forms/>. In lieu of Form 4, defendant may use this District's IFP
8 Application, which can be found on the District's website at: <https://www.wawd.uscourts.gov/>
9 court-forms.¹ Defendant also has the option of using neither form so long as he submits an
10 affidavit otherwise consistent with the requirements of Federal Rule of Appellate Procedure
11 24(a)(1).

12 For all the foregoing reasons, defendant's application to proceed IFP on appeal (Dkt.
13 # 268) is DENIED.

14 IT IS SO ORDERED.

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16 DATED this 3rd day of May, 2021.

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19 Robert S. Lasnik

20 United States District Judge

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26 ¹ The District's IFP Application is not tailored for appeals, and defendant is still required to state
27 the issues he intends to present on appeal. Fed. R. App. P. 24(a)(1)(C). This information could be
28 included in the section of the District's form inquiring about the nature of defendant's action or on a
separate page.